

**MEMORANDUM**

**To:** Human Resources Directors  
**From:** Karen Wingo  
**Date:** May 14, 2021  
**Subject:** State Government Staffing – Return to Normal Operations

**Important note:** The content of this memorandum, originally sent to agency directors March 11, 2021, and updated March 16, 2021, has been updated again to include additional information. The purpose of the additional information is to address questions received by the Division of State Human Resources by several agencies, as well as to incorporate Executive Order 2021-23 and recent guidance from the Centers for Disease Control and Prevention (CDC). Updated or New questions are labeled as “**AMENDED**” or “**NEW**.” Additionally, updated language is indicated by red font.

**Disclaimer: The guidance in this memorandum is based on the information available at this time and will be updated as more information becomes available.**

Pursuant to Executive Order No. 2021-12, state agencies must immediately expedite the transition back to normal operations.

All human resources directors shall submit to the South Carolina Department of Administration’s (Admin) State Human Resources Director Karen Wingo a plan to expeditiously return all employees and staff, including non-essential employees and staff, to the workplace fulltime. The plan, which must be submitted by noon, Wednesday, March 10, 2021, is subject to review and approval by Admin. **All agencies will receive a response from Admin regarding their submitted plans.**

If an agency or institution does not submit a plan or have a plan approved by Admin by the close of business Friday, March 12, 2021, the agency or institution is expected to return all staff to the workplace no later than Monday, March 15, 2021.

To assist agencies and institutions with returning their employees to the workplace, Admin has drafted guidance in the form of the following Frequently Asked Questions, which will be updated should additional guidance be needed.



## Frequently Asked Questions

### **FAQ 1: What information should be contained in the return to work plan for our agency and how should it be submitted?**

All agencies and institutions are expected to return employees back to the workplace by Monday, March 15, 2021.

If agencies are unable to meet this deadline and need a limited amount of time to modify the workplace to further mitigate the risk of exposure to COVID-19, the agency's human resources director must submit a written request for additional time to Division of State Human Resources Director Karen Wingo ([karen.wingo@admin.sc.gov](mailto:karen.wingo@admin.sc.gov)) no later than noon, Wednesday, March 10, 2021. The request must:

- Identify the steps being taken to immediately increase the number of staff in office; and
- Indicate why additional time is needed to return the remainder of the workforce to the office fulltime.

Here is an example of a request that would likely be approved:

- Agency X has a high number of non-essential staff working in a cubicle environment. The agency's plan calls for a rapid, phased approach to allow time for the agency or institution to modify the work environment as needed. On March 15, 2021, the agency would increase the number of employees in the workplace to 60% of the workforce. By March 22, 2021, 75% of the workforce will be physically reporting to the office, and the remainder of the employees will return to the workplace fulltime in early April.

### **FAQ 2: Does the expectation to return all employees to the workplace include those who work in close environments such as cubicles or shared offices? **AMENDED****

Yes. It is expected that only those employees who were working from home before the COVID-19 health emergency for unrelated Covid-19 reasons are to remain teleworking. Agencies and institutions should still employ measures to reduce the likelihood of transmission in the workplace including, but not limited to, **encouraging employees who are not fully vaccinated to wear masks in state government buildings**, reminding employees to wash hands frequently, maintaining directional signs to manage the flow of people in the buildings, disinfecting high touch services and directing employees to stay home when they are not feeling well.

**Guidance issued by the Centers for Disease Control and Prevention (CDC) on May 13, 2021, indicated that subject to certain exceptions, "fully vaccinated people no longer need to physically distance in any setting."**

### **FAQ 3: Does this expectation include those employees with medical conditions? **AMENDED****

Yes. However, agencies and institutions are still expected to follow the Americans with Disabilities Act, as amended, the Family and Medical Leave Act (FMLA), and other federal and state laws. Therefore, if an employee has a disability (e.g., congestive heart failure) that the Centers for Disease Control and Prevention (CDC) identifies as placing the individual at higher risk for severe illness resulting from the COVID-19 virus, the agency should go through the interactive process to evaluate a request for a **temporary** reasonable accommodation to work remotely until the individual has had an **opportunity** to be vaccinated **and reach maximum immunity levels, which is two weeks following the second dose of the Pfizer and Moderna vaccines and two weeks following the single Johnson and Johnson vaccine**. The CDC provides a list of conditions that place an individual at a higher risk of severe illness from the COVID-19

virus. [View the CDC's list.](#)

Agencies may receive requests for accommodation based on other types of disabilities, such as anxiety. Each request for an accommodation should be handled on a case-by-case basis and in a manner consistent with the ADA, FMLA and other laws relevant to individuals with a disability and/or in need of medical leave. Except for those employees working from home before the Covid-19 pandemic, it should be considered an essential job function for employees to be in the workplace. Therefore, agencies should go through an interactive dialogue with the employee to identify accommodations that would enable the employee to report to the workplace. Examples include access to additional personal protective equipment, a staggered reporting time, and reasonable work area modifications such as sneeze guards or the movement of a desk within the cubicle. **Nothing in the guidance should be construed to interfere with an agency's ability to work with a disabled employee on a one-on-one basis through the interactive process to identify possible reasonable accommodations.** If an agency has questions about a request for reasonable accommodation, the agency can contact Karen Wingo (803-422-8645) or their Division of State Human Resources HR Consultant (803-896-5300).

**FAQ 4: Is an employee expected to report to the workplace if a family member or household resident is at higher risk for severe illness from the COVID-19 virus?**

Yes. The Americans with Disabilities Act does not apply when the individual with a disability is a family member or household resident of the employee. Qualifying employees may be eligible for leave pursuant to the Family and Medical Leave Act (FMLA) if they need to care for a family member with a serious health condition. Requests for FMLA leave will need to be made by the employee and processed in accordance with federal law and agency policy.

**FAQ 5: If an employee has had close contact with a COVID-19 case and/or is symptomatic, should the agency still require the employee to quarantine? **AMENDED****

Yes. All guidelines regarding isolation and quarantine are still applicable **for unvaccinated employees.** Agencies and institutions should continue to rely on DHEC's Interim Guidance for COVID-19 Scenarios for Businesses. **This guidance was recently updated on April 7, 2021.** If an employee is required to quarantine based on DHEC's guidance, an agency has discretion to allow the employee to telework during the period of quarantine **if** the employee can perform his or her job functions remotely. Agency Heads and their designees have the sole discretion to determine whether to permit telework while an employee is quarantining. If an employee is permitted to telework while quarantining, the agency must return the employee back to the workplace immediately upon completion of the quarantine period.

**FAQ 6: If the child care center or school for the child of an employee is not open to in-person learning fulltime, is the employee expected to report to the workplace?**

Yes. All employees are expected to return to the workplace fulltime. However, if an agency wants to allow a short time for employees impacted by limitations on in-person learning to identify child care support or evaluate other options, that information should be included as part of the request for additional time referenced in FAQ 2. For example, if an agency submits a request indicating that it can return all employees to the workplace March 22, 2021, but is going to allow employees impacted by in-person learning limitations two additional weeks of time before returning fulltime to the workplace, such a request is likely to be approved.

**FAQ 7: Does the agency still need to submit its daily staffing numbers to the Division of State Human Resources? **AMENDED****

**Yes, on Tuesdays, Wednesdays and Thursdays. In the future, Admin will likely be able to further decrease**

**the daily reporting requirement.** However, as agencies transition employees back to the workplace fulltime and implement their return to workplace plans, it is critical that the agencies continue to accurately report their daily staffing numbers. Admin anticipates that agencies and institutions will continue to report staffing numbers weekly or monthly even after all entities have fully returned to normal operations.

**FAQ 8: What can I do to mitigate occupational risk of exposure to COVID-19 for my agency's employees?**

**AMENDED**

Agencies should continue to identify ways to modify the workplace to the extent possible to promote the safety of **unvaccinated** employees. Examples of modifications include:

- Offering staggered start times to mitigate the congregation of employees at points of ingress/egress.
- Spreading out workstations to increase the distance between work areas.
- Utilizing common space (e.g., conference rooms) as temporary worksites for some employees to promote social distancing.
- Installing sneeze guards or plexiglass barriers.

Guidance issued by the Centers for Disease Control and Prevention (CDC) on May 13 indicated that subject to certain exceptions, “fully vaccinated people no longer need to physically distance in any setting.”

Agencies should promote opportunities for employees to be vaccinated, but vaccines may not be required for state employees. Pursuant to Governor McMaster's Executive Order No. 2021-23, agencies may not require South Carolinians to provide proof of their vaccination status as a condition for receiving any government services or gaining access to any building, facility, or geographic location. Furthermore, agencies should not implement requirements that require employees to be vaccinated or be subjected to additional scrutiny or obligations, except as outlined below in FAQ 9.

Karen Wingo (803-422-8645) and the Division of State Human Resources HR Consultants (803-896-5300) are available to help agencies brainstorm ways to promote social distancing and mitigate workplace exposures **for unvaccinated employees** to the maximum extent possible.

**FAQ 9: Can an agency require its employees to wear face masks? AMENDED**

Agency heads have the flexibility to tailor any face mask requirements to specific circumstances within their agencies. Agency Heads should consider guidance issued by the Centers for Disease Control and Prevention (CDC) on May 13. The new CDC guidelines indicate that “fully vaccinated people no longer need to wear a mask or physically distance in any setting,” subject to exceptions outlined by the CDC including, but not limited to healthcare facilities, correctional facilities, homeless shelters, and on public transportation. The CDC still encourages prevention measures for unvaccinated people. The updated guidance can be found [here](#). Agencies should continue to monitor guidance from the Occupational Safety and Health Administration (OSHA) related to workplace safety. Employees always have the option to wear a mask if they choose unrelated to vaccinations status.

**FAQ 10: What are the options for those employees who made the decision in the fall to place their children in virtual school for the entire school year?**

Many school districts will allow parents to change their original choice. For those situations that employees are unable to alter the learning plan for their children, included in the agency's plan can be a limited amount of time to allow the employee to develop a child care plan for the remainder of the school

year, similar as discussed in FAQ 6. Employees may use any form of accrued leave, including sick leave, if additional time is needed to identify child or dependent care alternatives.

**FAQ 11: Many school districts are designating mandatory virtual school days, when the schools will not be open for in-person learning, to allow faculty and staff to be vaccinated. Should employees be allowed to telework on those days or must employees take leave if they cannot arrange for other childcare options?**

Agencies should handle mandatory virtual days in a manner consistent with how the agency has previously handled teacher in-service days or other school closures.

**FAQ 12: Can we delay the return of staff to the workplace until employees have had time to get vaccinated? AMENDED**

No. Unless an employee has a disability which places him or her at high risk of severe COVID-19 implications as identified by the CDC, an agency may not delay returning an employee to the workplace until the employee has had an opportunity to be vaccinated.

However, agencies should still continue to implement measures designed to mitigate the transmission of COVID-19 for unvaccinated employees in the workplace through means like holding meetings virtually to promote social distancing, adhering to directional signs in the workplace, encouraging employees to disinfect high touch surfaces regularly, and modifying the work area to promote social distancing wherever possible.

**FAQ 13: Is this transition back to the workplace Phase 3 under the Re-Entry Plan?**

No. When Admin developed the Re-Entry Plan for State Employees, the expectation was that Phase 3 would represent a return to pre-COVID-19 operations. While Executive Order 2021-12 returns all state employees back to the workplace fulltime, agencies should still implement measures designed to mitigate the transmission of the virus in the workplace and keep state employees and the citizens served by the agency safe.

**FAQ 14: Is the expectation to return employees fulltime or can we continue to use staggered schedules?**

Unless it is an accommodation for an individual with a disability or a temporary arrangement made pursuant to an approved plan submitted to DSHR, employees must return to the workplace fulltime and must return to their pre-COVID staffing arrangements. For example, if prior to COVID an employee that visits clients or consumers returned to an office after doing so, the employee is expected to resume that staffing practice after March 15.

**FAQ 15: The CDC indicates that pregnant individuals are at increased risk due to COVID. How should we handle expecting employees?**

A pregnant employee should be treated the same as any other employee with a disability that places him/her at increased risk for severe illness due to COVID. If the employee is not going to be vaccinated while pregnant, the agency or institution should work with the pregnant employee on a case-by-case basis to identify an accommodation, if needed.

**FAQ 16: Can we allow more time beyond April 19 for employees with a disability to be fully vaccinated?**

Yes. An agency has discretion to allow employees with a disability that places them at increased risk of severe illness from COVID-19 time additional time to be fully vaccinated before returning to the workplace if the employee can complete his/her job duties remotely and if no other safety measures can be implemented. It may take into late April/early May for employees to get vaccinated due to variations in

appointment availability and/or the type of vaccine. Allowing employees with such a disability to remain teleworking until fully vaccinated should only be a temporary accommodation.

**FAQ 17: Are there any restrictions on employee travel? AMENDED**

All decisions regarding employee travel are at the discretion of Agency Head or his/her designee. As noted above, **guidance issued by the CDC May 13, 2021, indicated that subject to certain exceptions, “fully vaccinated people no longer need to physically distance in any setting.” Mask use is required on public transportation, per [federal requirement](#).**

**FAQ 18: Does this guidance impact pre-existing ADA reasonable accommodations? AMENDED**

No, nothing in the guidance supersedes an agency’s obligation to abide by the ADA and other federal and state laws. Therefore, if an agency has an existing reasonable accommodation in place for an employee, this guidance does not supplant that accommodation. Similarly, if an employee has a disability which impacts his/her ability to perform one or more essential functions of his/her position other than returning to the workplace, the agency should work with the employee on a one-on-one basis through the interactive process to identify possible reasonable accommodations. **This guidance does not interfere with an agency’s obligation to work with a disabled employee on a one-on-one basis through the interactive process to identify possible reasonable accommodations, including but not limited to remote work, needed to allow the employee to perform the essential functions of their job or enjoy the benefits and privileges of employment.**

**FAQ 19: Are there any restrictions on in-person meetings? NEW**

Since July 2020, agencies have returned to normal service levels and have been conducting face-to-face interactions with the public. **However, agencies were advised to conduct internal meetings through telephone or video conferencing to the maximum extent possible to promote social distancing. Pursuant to the CDC guidelines issued on May 13, 2021, “fully vaccinated people no longer need to physically distance in any setting” (with those exceptions noted by the CDC). Therefore, Agency Heads and their designees have discretion to determine the appropriate method for conducting all meetings taking into account the CDC guidelines, the mission of the agency, and the nature of the meeting.**